

House Judiciary Committee Amendment # 1

Amendment No. 1 to HB1166

**Fowlkes
Signature of Sponsor**

FILED
Date _____
Time _____
Clerk _____
Comm. Amdt. _____

AMEND Senate Bill No. 1559

House Bill No. 1166*

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 40-29-105, is amended by deleting subsection (c) in its entirety and substituting instead the following:

(c) The following procedure shall apply to a person rendered infamous by virtue of being convicted of a felony on or after July 1, 1996:

(1) Except as provided in subdivision (c)(2)(B), a person rendered infamous or whose rights of citizenship have been deprived by the judgment of a state or federal court may seek restoration of full rights of citizenship by petitioning the circuit court of the county where the petitioner resides or where the conviction for the infamous crime occurred.

(2)

(A) A person receiving a pardon that restores full rights of citizenship may petition for restoration immediately upon receiving the pardon. However, the court shall not have the authority or jurisdiction to alter, delete or render void special conditions pertaining to the right of suffrage that may be contained in such pardon.

(B) A person convicted of an infamous crime may petition for restoration upon the expiration of the maximum sentence imposed by the court for the infamous crime or the person's final release from parole, probation, pre-trial or judicial diversion or community correction supervision.

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(C) Notwithstanding subdivision (A) or (B), a person convicted of first or second degree murder, aggravated rape, rape, rape of a child, treason or voter fraud shall never be eligible to register and vote in this state.

(3)

(A) By August 1, 2003, the administrative office of the court shall design, prepare and distribute to each circuit court clerk a form for petitioning for the restoration of citizenship rights. Such form shall be simple and designed in such a manner that a person petitioning for restoration is able to complete it properly without the necessity of an attorney. The petition form shall state that the petitioner desires restoration of his or her full citizenship rights, shall set forth the basis for the petitioner's eligibility for restoration and shall require only such other information as the administrative office of the courts deems pertinent and is readily obtainable by the petitioner. Each circuit court clerk shall maintain a supply of these restoration petition forms in the clerk's office.

(B) The petition for restoration shall be accompanied by a copy of the petitioner's pardon, final release from diversion, probation, community correction supervision, parole, letter of sentence expiration or such other document as makes the petitioner eligible for restoration of citizenship rights. The petition shall also be accompanied by sufficient proof that the petitioner has paid in full all court costs, fines and restitution assessed

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against the petitioner for the offense resulting in the judgment of infamy and any other court costs, fines and restitution owed by the petitioner as the result of pleading guilty to or being found guilty of any other offense.

(C) Upon the filing of the petition, the court shall notify the coordinator of elections in an attempt to determine if the petitioner's citizenship rights have previously been restored pursuant to this section. If the coordinator of elections indicates from the coordinator's records that such relief has previously been granted, the court shall dismiss the petition. If the petitioner has not previously been granted relief under this section, upon the filing of the petition, a court date shall be set at least thirty (30) but not more than ninety (90) days from the date of the filing.

(D) There is a presumption that a petition filed pursuant to this subsection shall be granted and that the full citizenship rights of the petitioner shall be restored. This presumption may only be overcome upon proof by a preponderance of the evidence that either the petitioner is not eligible for restoration, has not paid in full all court costs, fines and restitution owed by the petitioner or there is otherwise good cause to deny the petition.

(4)

(A) Upon a petition being filed pursuant to this subsection, the circuit court clerk shall provide notice to the district attorney general in whose county the petitioner resides and the district attorney general of

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the county in which the conviction occurred. These officials shall have until the court date set forth in the notice to object to the restoration of the petitioner's citizenship rights either in person or in writing.

(B) If the petitioner was rendered infamous or deprived of citizenship rights by judgment of a federal court, the circuit court clerk shall provide a copy of the notice of the petition to the United States attorney and the district attorney general in whose district the petitioner is currently residing. Each such official shall have the same right to object to the petition as is provided in subdivision (c)(4)(A).

(5) If the district attorney general or United States attorney fails to object by the court date set in the notice, the judge may either grant the petition and enter an order restoring the petitioner's full citizenship rights or the judge may require the petitioner to appear before the judge. Any appearance before the judge may, in the discretion of the judge, be conducted in chambers or in open court. At the conclusion of such appearance, the judge may grant the petition and enter an order restoring the petitioner's full citizenship rights, require the petitioner to submit additional information or deny the petition. If the judge grants the petition and enters an order restoring the petitioner's full citizenship rights, the judge shall send or cause to be sent a copy of the order to the state coordinator of elections.

(6) If the district attorney general or United States attorney objects by the date set in the notice, a hearing shall be conducted on such date. At the hearing,

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the district attorney general or United States attorney may appear or submit objections in writing and the petitioner shall appear. At the conclusion of the hearing, the judge shall either grant the petition and enter an order restoring the petitioner's full citizenship rights or deny the petition. If the judge grants the petition and enters an order restoring the petitioner's full citizenship rights the judge shall send or cause to be sent a copy of the order to the state coordinator of elections.

(7) Notwithstanding subdivision (5) or (6), the judge shall not grant a petition for the restoration of the petitioner's citizenship rights unless the judge is satisfied that the petitioner has paid in full all court costs, fines and restitution assessed against the petitioner for the offense resulting in the judgment of infamy and any other court costs, fines and restitution owed by the petitioner as the result of pleading guilty to or being found guilty of any other offense.

(8) If the judge grants a petition pursuant to subdivision (5) or (6), the order restoring the petitioner's full citizenship rights shall, unless prohibited by federal law, be construed to include all rights to which the petitioner was entitled prior to the conviction for an infamous crime.

(9) All costs for a proceeding under this subsection to restore a person's citizenship rights shall be paid by the petitioner unless the court specifically orders otherwise.

(10) Any person whose citizenship rights have been restored by order of the court pursuant to this subsection shall submit a certified copy of such order to

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the administrator of elections of the county in which such person is eligible to vote. The administrator of elections shall verify with the coordinator of elections that such an order was issued and, upon receiving such verification, shall issue the person a voter registration card entitling the person to vote.

(11) A person whose citizenship rights have been lost as the result of being convicted of an infamous crime may only have such rights restored pursuant to this section one (1) time. If, after a person's rights are restored pursuant to this section, such person is again convicted of a felony and a judgment of infamy is entered against such person, the person is forever barred from the relief granted by this section and any additional petition filed pursuant to this section shall be summarily dismissed as provided in subpart (3)(C).

SECTION 2. For purposes of the administrative office of the courts preparing and distributing the petition for restoration form, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, it shall take effect on August 1, 2003.